

On May 12, 2008, plaintiff, a California prisoner then incarcerated at Salinas Valley State Prison (“SVSP”) and proceeding pro se, filed the above-titled civil rights complaint pursuant to 42 U.S.C. § 1983, claiming deliberate indifference to his serious medical needs by medical officials at SVSP.<sup>1</sup>

Now pending before the Court is defendants' motion to dismiss the amended complaint ("AC") for failure to exhaust administrative remedies or, alternatively, motion for summary judgment. Plaintiff has opposed the motion and defendants have filed a reply.

Also before the Court are plaintiff's discovery-related motions and motion for a court-ordered physical examination.

<sup>1</sup>In April 2010, plaintiff was transferred to Corcoran State Prison, where he currently resides.

1 For the reasons set forth below, the Court will deny all of the above motions.

2 **BACKGROUND**

3 The following facts are drawn from plaintiff's verified AC, see Keenan v. Hall, 83  
4 F.3d 1083, 1090 n.1 (9th Cir. 1996), amended, 135 F.3d 1318 (9th Cir. 1998) (treating  
5 allegations in prisoner's verified amended complaint as affidavit), as well as plaintiff's  
6 opposition to defendants' dispositive motion, and plaintiff's exhibits.<sup>2</sup>

7 In 2004, plaintiff, while incarcerated at SVSP, was diagnosed with Hepatitis A, B and  
8 C. Nine months after his diagnosis, plaintiff was told he would receive "combination  
9 therapy" for his Hepatitis. Although, from the date plaintiff was diagnosed, notations were  
10 made in plaintiff's medical records that he tested positive for Hepatitis, plaintiff did not  
11 subsequently receive any treatment therefor. Further, following plaintiff's diagnosis, various  
12 SVSP medical practitioners told plaintiff he does not have Hepatitis and refused to treat him  
13 for such condition. Specifically, according to plaintiff, (1) in 2004, Dr. Randolph Gibbs  
14 refused to provide plaintiff with combination therapy for Hepatitis treatment; (2) in 2005,  
15 Drs. Reynal Cordero, Navneet Adya, Anthony Milanes and Bey Lovevasia refused to provide  
16 plaintiff with Hepatitis treatment; (3) in 2006, Dr. Rany Sid refused to provide plaintiff with  
17 Hepatitis treatment; (4) in 2007, Drs. Robert Bowman and R. Rodrigues refused to provide  
18 plaintiff with Hepatitis treatment, and (5) in 2008, Dr. Sid again refused to provide plaintiff  
19 with Hepatitis treatment. (See AC at 3:10-22, 5:1-11.)

20 In 2007, plaintiff filed a medical administrative appeal, asking to be seen by a private,  
21 i.e. non-SVSP, doctor, to confirm his Hepatitis diagnosis and for treatment. At the first level  
22 of review, Nurse Mejias told plaintiff there was no record of his having Hepatitis. (AC at  
23 5:15-22.) Similarly, at the second level of review, Nurse Practitioner Tyler, Dr. K. Brannon  
24 and Dr. Charles M. Lee, the Health Care Manager at SVSP, stated there was no evidence in  
25 plaintiff's medical records indicating plaintiff had Hepatitis. (AC at 5:26-6:5.) Dr. Lee,

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28 <sup>2</sup> Defendants argue in their moving papers that plaintiff's evidence does not support  
plaintiff's depiction of the facts, but have not provided a separate statement of facts or other  
independent evidence in support of their motion.

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1 however, partially granted plaintiff's appeal and ordered a new screening test for Hepatitis A,  
2 B and C. (AC Ex. A "Memorandum" dated Jan. 15, 2008, at 2.) Plaintiff then filed a third,  
3 i.e., Director's, level appeal, again asking to see a private, non-SVSP doctor. On April 25,  
4 2008, N. Grannis, Chief Inmate Appeals Coordinator, denied the appeal on the ground that  
5 Dr. Lee already had ordered further testing for plaintiff and that plaintiff had no right to see a  
6 private physician under such circumstances. (AC Ex. A "Director's Level Appeal Decision"  
7 dated Apr. 25, 2008.)

8 In 2009, plaintiff filed another round of administrative appeals at SVSP, claiming he  
9 still was not receiving proper treatment for his Hepatitis. The reviewers at the second and  
10 Director's levels of review acknowledged that plaintiff does have Hepatitis and that SVSP  
11 doctors were aware of such, but concluded plaintiff had received proper treatment while  
12 incarcerated at SVSP. (Opp'n, Ex. E "Memorandum" Second Level Appeal Response dated  
13 Jan. 5, 2010; Director's Level Response dated Apr. 6, 2010.)

14 Claiming he has never received adequate care for his Hepatitis from any doctor at  
15 SVSP, and that the nurses and doctors who refused to treat him or grant his appeals  
16 intentionally destroyed the medical records showing he has Hepatitis, plaintiff names as  
17 defendants each of the SVSP nurses and doctors who told him he does not have Hepatitis and  
18 denied him Hepatitis treatment.

19 Plaintiff asks the Court to order that he be seen by a private physician; plaintiff also  
20 seeks monetary damages.

## 21 DISCUSSION

### 22 A. Motion to Dismiss for Failure to Exhaust Administrative Remedies

23 Defendants move to dismiss plaintiff's claims on the ground plaintiff has failed to  
24 exhaust his administrative remedies as required under 42 U.S.C. § 1997(e).

#### 25 1. Legal Standard

26 Non-exhaustion under § 1997e(a) is an affirmative defense; defendants have the  
27 burden of raising and proving the absence of exhaustion. Wyatt v. Terhune, 315 F.3d 1108,  
28 1119 (9th Cir. 2003). A nonexhaustion defense should be raised in an unenumerated Rule

1 12(b) motion. Id. In deciding such a motion, the district court may look beyond the  
2 pleadings and decide disputed issues of fact. Id. at 1119-20. If the court concludes the  
3 prisoner has not exhausted nonjudicial remedies, the proper remedy is dismissal of the  
4 complaint without prejudice. Id. at 1120.

5       2.     The Exhaustion Requirement

6       The Prison Litigation Reform Act of 1995, Pub. L. No. 104-134, 110 Stat. 1321  
7 (1996) (“PLRA”) provides: “No action shall be brought with respect to prison conditions  
8 under [42 U.S.C. § 1983], or any other Federal law, by a prisoner confined in any jail, prison,  
9 or other correctional facility until such administrative remedies as are available are  
10 exhausted.” 42 U.S.C. § 1997e(a). Exhaustion is mandatory and not left to the discretion of  
11 the district court. Woodford v. Ngo, 548 U.S. 81, 84 (2006). “Exhaustion gives an agency  
12 an opportunity to correct its own mistakes with respect to the programs it administers before  
13 it is haled into federal court, and it discourages disregard of [the agency's] procedures.” Id. at  
14 89 (internal citation omitted). Section 1997e(a) requires a prisoner-plaintiff to present his  
15 claims to each level of administrative review before raising the claims in a § 1983 action in  
16 federal court. See id. at 88.

17       The State of California provides its prisoners and parolees the right to appeal  
18 administratively “any departmental decision, action, condition or policy perceived by those  
19 individuals as adversely affecting their welfare.” Cal. Code Regs. tit. 15, (“CCR”),  
20 § 3084.1(a).<sup>3</sup> In order to exhaust available administrative remedies within this system, a  
21 prisoner must proceed through several levels of appeal: (1) informal review; (2) first formal  
22 level appeal, submitted on a CDC 602 inmate appeal form; (3) second formal level appeal, to  
23 the institution head or designee; and (4) third formal level appeal, to the Director of the  
24 California Department of Corrections and Rehabilitation (“CDCR”). See CCR § 3084.5;  
25 Brodheim v. Cry, 584 F.3d 1262, 1264-65 (9th Cir. 2009). A final decision from the  
26 Director’s level of review satisfies the exhaustion requirement under § 1997e(a). Id. at 1265;

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28       <sup>3</sup>Unless otherwise noted, all further references to code sections are to title 15 of the  
California Code of Regulations.

1     Barry v. Ratelle, 985 F. Supp. 1235, 1237-38 (S.D. Cal. 1997).

2                 An action must be dismissed unless the prisoner first exhausted his available  
3 administrative remedies before he filed suit. McKinney v. Carey, 311 F.3d 1198, 1199 (9th  
4 Cir. 2002).

5                 3.     Exhaustion of Remedies

6                 Defendants argue plaintiff did not properly exhaust his administrative remedies  
7 because plaintiff, before submitting to the Director's level of review the final grievance in the  
8 series of grievances he initiated in 2007, did not follow proper procedural requirements by  
9 first submitting a written request to the warden for referral to an outside physician. In  
10 opposition, plaintiff asserts he properly submitted such a request for referral to an outside  
11 physician at the both the second and Director's levels of review, where his request was  
12 denied on the merits.

13                 The PLRA's exhaustion requirement cannot be satisfied "by filing an untimely or  
14 otherwise procedurally defective administrative grievance or appeal." Woodford, 548 U.S. at  
15 84. Rather, the PLRA requires proper exhaustion. Id. at 92. "Proper exhaustion demands  
16 compliance with an agency's deadlines and other critical procedural rules because no  
17 adjudicative system can function effectively without imposing some orderly structure on the  
18 course of its proceedings." Id. at 90-91 (footnote omitted).

19                 Compliance with prison grievance procedures is all that is required by the PLRA to  
20 properly exhaust. Jones v. Bock, 549 U.S. 199, 217-18 (2007). Consequently, a prisoner, in  
21 order to properly exhaust, need only provide in a grievance the level of detail required by the  
22 prison's regulations. Sapp v. Kimbrell, 623 F.3d 813, 824 (9th Cir. 2010). In California,  
23 prison regulations require only that an inmate "'describe the problem and the action  
24 requested.'" Id. (quoting CCR § 3084.2(a)). Thus, a grievance suffices if it alerts the prison  
25 to the nature of the wrong for which redress is sought. Id.

26                 As noted above, plaintiff alleges he was diagnosed with Hepatitis by prison doctors in  
27 2004 and told he would be provided with "combination therapy" for the disease, but that he  
28 thereafter was denied treatment for several years by SVSP medical personnel who told him

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1 he did not have Hepatitis. Based on such allegations, plaintiff claims inadequate medical  
2 care and asks to be examined by an outside physician and awarded monetary damages.

3 The Court finds plaintiff has presented evidence sufficient to show the grievances he  
4 pursued prior to filing the instant action were adequate to put prison officials on notice of the  
5 claims for which he seeks redress herein. Specifically, plaintiff has presented evidence that  
6 shows the following: In plaintiff's first level administrative appeal, filed in 2007, he  
7 explained that he had been diagnosed with Hepatitis almost four-and-one-half years  
8 previously, complained that his requests for treatment were being ignored, and asked to be  
9 referred to an outside doctor for a second opinion. (AC Ex. A "Inmate Appeal Form" ¶ A.)  
10 When that appeal was denied and plaintiff was told that he must make a written request to the  
11 warden for an outside physician referral, plaintiff filed a second level appeal, expressly  
12 asking the warden for such referral. (AC Ex. A "Inmate Appeal Form" ¶¶ E, F.) Plaintiff's  
13 request was acknowledged at the second level and denied; the appeal was partially granted,  
14 in that plaintiff's medical file was reviewed and a new Hepatitis screening test ordered. (AC  
15 Ex. A "Memorandum" dated Jan. 15, 2008.) Plaintiff then submitted an appeal to the  
16 Director's level of review, asking to be tested for Hepatitis by an outside doctor because  
17 plaintiff did not trust SVSP medical staff. (AC Ex. A. "Inmate Appeal Form" ¶ H.) The  
18 appeal was denied on the ground plaintiff's medical records made no mention of his "ever  
19 having any form of Hepatitis" and because he already had been scheduled for a new Hepatitis  
20 screening test. (AC Ex. A "Director's Level Appeal Decision" dated Apr. 25, 2008.)

21 Based on the above, the Court concludes plaintiff's administrative grievances alerted  
22 prison officials to the nature of plaintiff's complaint that he had requested but was not  
23 receiving proper medical attention subsequent to his having been diagnosed with Hepatitis in  
24 2004, and that he believed the only way to receive proper treatment was through referral to  
25 an outside physician for a second opinion. Further, said grievances, including plaintiff's  
26 request for referral to an outside physician, were not screened out and instead were denied on  
27 the merits at both the second and Director's levels of review.

28 Accordingly, as plaintiff has produced evidence that he properly exhausted his

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1 administrative remedies, and defendants have failed to meet their burden of raising and  
2 proving the absence of exhaustion, defendants' motion to dismiss the claims against them as  
3 unexhausted will be denied.

4 **B. Motion for Summary Judgment**

5 **1. Legal Standard**

6 Summary judgment is proper where the pleadings, discovery, and affidavits show  
7 there is "no genuine issue as to any material fact and that the moving party is entitled to  
8 judgment as a matter of law." Fed. R. Civ. P. 56(c). Material facts are those that may affect  
9 the outcome of the case. See Anderson v. Liberty Lobby, Inc. Anderson, 477 U.S. 242, 248  
10 (1986). A dispute as to a material fact is genuine if the evidence is such that a reasonable  
11 jury could return a verdict for the nonmoving party. Id.

12 It is the moving party's burden to establish that no genuine issue of material fact exists  
13 and that the moving party is entitled to judgement as a matter of law. British Airways Board  
14 v. Boeing Co., 585 F.2d 946, 951 (9th Cir. 1978), cert. denied, 440 U.S. 981 (1979). Where  
15 the defendant is the moving party, the court will grant summary judgment against a plaintiff  
16 "who fails to make a showing sufficient to establish the existence of an element essential to  
17 that [plaintiff's] case, and on which that party will bear the burden of proof at trial . . . since a  
18 complete failure of proof concerning an essential element of the nonmoving party's case  
19 necessarily renders all other facts immaterial." Celotex Corp. v. Catrett, 477 U.S. 317, 322-  
20 23 (1986).

21 For purposes of summary judgment, the court must view the evidence in the light most  
22 favorable to the nonmoving party; if the evidence produced by the moving party conflicts  
23 with evidence produced by the nonmoving party, the court must assume the truth of the  
24 evidence submitted by the nonmoving party. Leslie v. Grupo ICA, 198 F.3d 1152, 1158 (9th  
25 Cir. 1999). The court's function on a summary judgment motion is not to make credibility  
26 determinations or weigh conflicting evidence with respect to a disputed material fact. T.W.  
27 Elec. Serv., Inc. v. Pacific Elec. Contractors Ass'n, 809 F.2d 626, 630 (9th Cir. 1987).

28 **2. Defendants' Motion for Summary Judgment**

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1       Deliberate indifference to a prisoner's serious medical needs violates the Eighth  
2 Amendment's proscription against cruel and unusual punishment. See Estelle v. Gamble,  
3 429 U.S. 97, 104 (1976). A determination of "deliberate indifference" involves an  
4 examination of two elements: the seriousness of the prisoner's medical need and the nature of  
5 the defendant's response to that need. McGuckin v. Smith, 974 F.2d 1050, 1059 (9th Cir.  
6 1992), overruled on other grounds, WMX Technologies, Inc. v. Miller, 104 F.3d 1133, 1136  
7 (9th Cir. 1997) (en banc). A prison official is deliberately indifferent if he knows that a  
8 prisoner faces a substantial risk of serious harm and disregards that risk by failing to take  
9 reasonable steps to abate it. Farmer v. Brennan, 511 U.S. 825, 837 (1994). The prison  
10 official must not only "be aware of facts from which the inference could be drawn that a  
11 substantial risk of serious harm exists," but "must also draw the inference." Id.  
12 Consequently, in order for deliberate indifference to be established, there must exist both a  
13 purposeful act or failure to act on the part of the defendant and harm resulting therefrom. See  
14 McGuckin, 974 F.2d at 1060. Deliberate indifference may be manifested when prison  
15 officials intentionally deny or delay medical care. Estelle v. Gamble, 429 U.S. 97, 104-05  
16 (1976).

17       In the instant motion for summary judgment, defendants do not argue that Hepatitis is  
18 not a serious medical need. Instead, they move for summary judgment on the ground  
19 plaintiff cannot show defendants acted with deliberate indifference to his serious medical  
20 needs because "[p]laintiff has submitted zero evidence that he has ever been diagnosed with  
21 Hepatitis A, B, or C." (Mot. to Dismiss or for Summ. J. at 2:19.) Further, defendants  
22 maintain they did not act with deliberate indifference in failing to provide plaintiff with  
23 additional diagnostic tests and treatment for Hepatitis because, based on their review of  
24 plaintiff's medical records, they have found an absence of evidence that "[any] healthcare  
25 provider that has been responsible for the care and treatment of [p]laintiff has ever diagnosed  
26 him with Hepatitis A, B, or C" and, therefore, defendants did not believe that they were  
27 required to provide further treatment for him. (Id. at 6:10-14.)

28       Plaintiff, by contrast, argues, and produces evidence to the effect, that his medical

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records clearly show he was diagnosed with Hepatitis as early as 2004, that defendants were aware of such diagnosis and told him he would be treated, and that defendants intentionally failed, for several years, to respond to plaintiff's requests to confirm his diagnosis and provide him with proper treatment, or, alternatively, refer him to an outside doctor for a second medical opinion. In particular, plaintiff has presented evidence of: (1) laboratory results and medical records from 2004 and 2005, noting plaintiff is infected with Hepatitis (AC Ex. B at 18, 22-27, 29-30, 32); (2) plaintiff's verified statement that he was told in 2004 that he would receive "combination therapy" for his Hepatitis but SVSP doctors subsequently refused, between 2004 and 2008, to accommodate plaintiff's requests for any treatment for his Hepatitis (AC at 3:10-22, 5:1-11); (3) responses to plaintiff's administrative appeals in 2007 and 2008, expressly telling plaintiff there is no evidence in his medical records that he was ever told he has Hepatitis (AC Ex. A at 8-13); (4) laboratory results of blood tests taken in 2010 showing plaintiff is infected with Hepatitis (Opp'n Ex. D at 78-79); and (5) responses to administrative appeals filed by plaintiff in 2009 and 2010, acknowledging plaintiff has Hepatitis and stating he received proper treatment for such condition when at SVSP (Opp'n Ex. E at 83-88).

In response, defendants argue that, contrary to plaintiff's assertions that the evidence shows his medical needs were not properly addressed, plaintiff's evidence supports defendants' contention that they did not act with deliberate indifference, because the medical records show plaintiff was treated on numerous occasions by SVSP doctors for his medical concerns and that plaintiff has misinterpreted the information pertaining to his Hepatitis diagnosis and treatment. Although defendants correctly note that plaintiff's evidence shows he was seen repeatedly by SVSP doctors for various medical complaints, there is no merit to defendants' argument that the medical records produced by plaintiff show plaintiff is mistaken about his Hepatitis diagnosis and treatment, or that he received appropriate care for such disease.<sup>4</sup> Rather, taking plaintiff's allegations as true, and construing all evidence in the

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<sup>4</sup>As noted, defendants have not supported their motion with medical records or other evidence pertaining to plaintiff's diagnosis and treatment.

1 light most favorable to him, the Court finds a reasonable inference can be drawn that  
2 defendants acted with deliberate indifference to plaintiff's serious medical needs.  
3 Specifically, plaintiff has produced sufficient evidence to raise a triable issue as to whether  
4 he was diagnosed with Hepatitis in 2004, whether defendants were aware of such diagnosis,  
5 and whether defendants unreasonably failed to respond to plaintiff's repeated requests for  
6 follow-up testing, appropriate treatment, and a second medical opinion.

7 Accordingly, as defendants have failed to carry their burden of demonstrating the  
8 absence of a genuine issue of material fact with respect to whether they acted with deliberate  
9 indifference to plaintiff's serious medical needs, defendants' alternative motion for summary  
10 judgment will be denied. As set forth at the conclusion of this order, defendants shall inform  
11 the Court whether they intend to file a renewed motion for summary judgment or, instead,  
12 will proceed directly to settlement proceedings.

13 C. Qualified Immunity

14 Defendants, in addition to the above-described argument that no constitutional  
15 violation occurred, argue they are entitled to qualified immunity.

16 The defense of qualified immunity protects "government officials . . . from liability  
17 for civil damages insofar as their conduct does not violate clearly established statutory or  
18 constitutional rights of which a reasonable person would have known." Harlow v. Fitzgerald,  
19 457 U.S. 800, 818 (1982). A court considering a claim of qualified immunity must determine  
20 (1) whether the plaintiff has alleged the deprivation of an actual constitutional right and (2)  
21 whether such right was clearly established such that it would be clear to a reasonable officer  
22 that his conduct was unlawful in the situation he confronted. Pearson v. Callahan, 129 S. Ct.  
23 808, 818 (2009). The court may exercise its discretion in deciding which prong of the test to  
24 address first, in light of the particular circumstances of the case. Id. "If there are genuine  
25 issues of material fact in issue relating to the historical facts of what the official knew or  
26 what he did," such questions of fact are for the jury to determine, and, consequently,  
27 summary judgment on the issue of qualified immunity cannot be granted. Sinaloa Lake  
28 Owners Assn. v. City of Simi Valley, 70 F.3d 1095, 1099 (9th Cir. 1995).

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1       Here, as discussed above, there are genuine issues of material fact relating to the  
2 historical facts of what defendants herein knew and did regarding plaintiff's Hepatitis  
3 diagnosis and requests for treatment, such that it is not possible to say on summary judgment  
4 that a reasonable doctor or prison official would have thought it was constitutional to deny  
5 plaintiff the testing and treatment he requested. Accordingly, defendants' motion for  
6 summary judgment on grounds of qualified immunity will be denied.

7       D. Plaintiff's Discovery-Related Motions

8       Prior to filing his opposition to defendants' dispositive motion, plaintiff filed a motion  
9 to compel discovery, as well as several other discovery-related motions, asserting defendants  
10 had failed to provide him with requested discovery that he required in order to prepare his  
11 opposition to defendants' motion. Defendants have not responded to plaintiff's motion to  
12 compel or to his other discovery-related motions.

13       In view of the Court's ruling that, based on the evidence presented by plaintiff,  
14 defendants' motion to dismiss or, alternatively, motion for summary judgment, will be  
15 denied, plaintiff's motion to compel, as well as his other discovery-related motions, will be  
16 denied without prejudice as moot. Once defendants inform the Court as to whether they  
17 intend to file a renewed motion for summary judgment or, instead, will proceed directly to  
18 settlement proceedings, the Court will set a schedule for the parties to engage in further  
19 discovery.

20       E. Plaintiff's Motion for a Court-Ordered Physical Examination

21       Plaintiff moves, pursuant to Rule 35 of the Federal Rules of Civil Procedure, for a  
22 court order directing he be given a physical examination. Rule 35 provides, in relevant part:

23       The court where the action is pending may order a party whose mental or  
24 physical condition – including blood group – is in controversy to submit to a  
physical or mental examination by a suitably licensed or certified examiner.

25 Fed. R. Civ. P. 35(a)(1). Plaintiff argues he requires a physical examination because  
26 defendants have refused to acknowledge he was diagnosed with Hepatitis in 2004 and 2010.

27       Although a district court, pursuant to Rule 35, may, under appropriate circumstances,  
28 order a party to submit to a physical examination at the request of an opposing party, Rule 35

1 "does not vest the court with authority to appoint an expert to examine a party wishing an  
2 examination of himself." Smith v. Carroll, 602 F. Supp.2d 521, 526 (D. Del. 2009); see, e.g.,  
3 Baker v. Hatch, 2010 WL 3212859 at \* 3 (E.D. Cal. 2010) (finding no authority under Rule  
4 35(a) to grant pro se prisoner plaintiff's request for medical examination); Adams v. Epps,  
5 2008 WL 4861926 at \*1 (S.D. Miss. 2008) (same); Cabrera v. Williams, 2007 WL 2682163  
6 at \*2 (D. Neb. Sept .7, 2007) (same).

7 Accordingly, plaintiff's request for a court-ordered physical examination pursuant to  
8 Rule 35 will be denied. Plaintiff is not precluded, however, from retaining his own expert  
9 medical witness to examine plaintiff and render a medical opinion.

10 **CONCLUSION**

11 For the reasons stated above, the Court orders as follows:

12 1. Defendants' motion to dismiss, or, alternatively, for summary judgment, is hereby  
13 DENIED.

14 2. Within **thirty** days from the date this order is filed, defendants shall inform the  
15 Court and plaintiff whether they will file a renewed motion for summary judgment or,  
16 instead, whether the matter shall be referred for settlement proceedings.

17 3. Plaintiff's motion to compel discovery and other discovery-related motions are  
18 hereby DENIED without prejudice.

19 4. Plaintiff's motion for a court-ordered physical examination is hereby DENIED.

20 This order terminates Docket Nos. 28, 29, 32, 36 and 40.

21 IT IS SO ORDERED.

22 DATED: January 19, 2011

23   
24 MAXINE M. CHESNEY  
25 United States District Judge  
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